

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Yu	Team: Squad #16	CCRB Case #: 201510553	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 12/03/2015 8:10 PM	Location of Incident: [REDACTED]	Precinct: 34	18 Mo. SOL 6/3/2017	EO SOL 6/3/2017	
Date/Time CV Reported Thu, 12/03/2015 10:20 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 12/14/2015 11:09 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POF Angela Polancobrito	04956	939240	034 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Louis Chen	22748	953745	034 PCT
2. SGT Mark Carlino	01896	936306	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POF Angela Polancobrito	Off. Language: In front of § 87(2)(b) in Manhattan, Police Officer Angela Polancobrito spoke offensively towards § 87(2)(b).	A . § 87(2)(b)
B . POF Angela Polancobrito	Discourtesy: In front of § 87(2)(b) in Manhattan, and at the 34th Precinct stationhouse, Police Officer Angela Polancobrito spoke discourteously to § 87(2)(b).	B . § 87(2)(b)
C . POF Angela Polancobrito	Abuse of Authority: In front of § 87(2)(b) in Manhattan, Police Officer Angela Polancobrito refused to provide her name and shield number to § 87(2)(b).	C . § 87(2)(b)
D . POF Angela Polancobrito	Discourtesy: En route to the 34th Precinct stationhouse, Police Officer Angela Polancobrito spoke discourteously to § 87(2)(b).	D . § 87(2)(b)
E . POF Angela Polancobrito	Abuse of Authority: At the 34th Precinct stationhouse, Police Officer Angela Polancobrito refused to provide her name and shield number to § 87(2)(b).	E . § 87(2)(b)
F . POF Angela Polancobrito	Abuse of Authority: At the 34th Precinct stationhouse, Police Officer Angela Polancobrito issued a summons to § 87(2)(b).	F . § 87(2)(b)
G . POF Angela Polancobrito	Other: There is evidence suggesting PO Angela Polancobrito provided a false official statement in violation of PGP 203-08, which the CCRB referred to IAB on March 28, 2016, generating log number 16-11009.	G . § 87(2)(b)

### Case Summary

On December 3, 2015, § 87(2)(b) filed this complaint with IAB on behalf of her son, § 87(2)(b). The CCRB received this case on December 14, 2016.

On December 3, 2015, at approximately 8:10 p.m., § 87(2)(b) and § 87(2)(b) § 87(2)(b) old and 11 years old respectively, exited their residence located on § 87(2)(b) in Manhattan, and were jumping in front one another when § 87(2)(b) fell. PO Angela Polancobrito and PO Louis Chen, who were at the location for an unrelated job, approached § 87(2)(b) and § 87(2)(b). After a brief conversation, § 87(2)(b) was placed in handcuffs. § 87(2)(b) and an unidentified neighbor exited the building and asked PO Polancobrito for an explanation of her actions. § 87(2)(b) alleged that PO Polancobrito stated that she does not “tolerate this crap you people do” and that she was “tired of the shit that goes on in this neighborhood” (**Allegation A and Allegation B**). § 87(2)(b) subsequently asked PO Polancobrito for her name and badge number, but neither was provided to her (**Allegation C**).

PO Polancobrito and PO Chen transported § 87(2)(b) to the 34<sup>th</sup> Precinct stationhouse. § 87(2)(b) alleged that while en route to the stationhouse and at the stationhouse, PO Polancobrito used the word “bullshit” multiple times when speaking to him (**Allegation D**). § 87(2)(b) also alleged that while she was in the stationhouse, PO Polancobrito also used the word “bullshit” multiple times and said the word “shit” when speaking to her (**subsumed within Allegation B**). While at the stationhouse, § 87(2)(b) asked PO Polancobrito for her name and badge number again, but she did not provide it (**Allegation E**).

§ 87(2)(b) was released on the same day and was issued two summonses for § 87(2)(b). § 87(2)(a) CPL 160.50 by PO Polancobrito (**Allegation F**). The two summonses were dismissed and sealed by the courts.

The CCRB found evidence suggesting that PO Polancobrito provided a false official statement regarding this incident (**Allegation G**), which was referred to IAB as spin-off case on March 28, 2016, generating IAB log # 16-11009.

No video evidence was available for this incident.

### Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation during his interview because he did not want to speak with PO Polancobrito.
- § 87(2)(b) does not have an arrest history (Board Review 13). Thus, an OCA search could not be completed.
- On March 4, 2016, the NYC Comptroller’s Office indicated that § 87(2)(b) has not filed a Notice of Claim in regards to this incident (Board Review 14). On March 17, 2016, the NYC Comptroller’s Office indicated that § 87(2)(b) has not filed a Notice of Claim in regards to this incident (Board Review 15).

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b)

- PO Polancobrito has been a member of the NYPD for 10 years and has 40 prior CCRB allegations pleaded against her in 11 cases; four of her prior CCRB allegations were substantiated § 87(4-b), § 87(2)(g).
  - In CCRB case #200614102, an allegation of pepper spray was substantiated against PO Polancobrito. The NYPD imposed the Board's recommendation for Command Discipline B against her.
  - In CCRB case #200818612, an allegation of discourtesy was substantiated against PO Polancobrito, § 87(4-b), § 87(2)(g). The NYPD imposed the Board's recommendation for Command Discipline B against her for the discourtesy. § 87(4-b), § 87(2)(g).
  - In CCRB case #201016396, an allegation of force and the issuance of a retaliatory summons were substantiated against PO Polancobrito and the Board recommended charges. It was indicated that there was a guilty plea that resulted in the NYPD imposing 32+ days of suspension and a loss of 20 vacation days against her. The investigation determined PO Polancobrito improperly issued a disorderly conduct summons and that her reasons for the issuance were found to be untrue. Moreover, in this case, she was also cited for other misconduct for providing a false official statement to the CCRB.

### Potential issues

§ 87(2)(b) did not know the name of the name of the witness who lived at § 87(2)(b) in Manhattan (Board Review 02). A Lexis Nexis search revealed multiple phone numbers for the address. However, despite calls to the listed phone numbers and letters sent to the address that were not later returned by the US Postal Service, the witness could not be reached to provide a statement. On February 2, 2016, the Field Team posted canvassing letters in the lobby of § 87(2)(b) in Manhattan and placed a letter on the door of § 87(2)(b) (Board Review 04). To date, neither the resident of § 87(2)(b) nor any residents contacted the CCRB.

§ 87(2)(b) informed the investigation that an unidentified neighbor may have recorded the incident. However, to date, § 87(2)(b) has not retrieved the footage or otherwise provided the CCRB with the information needed to locate the video.

### Findings and Recommendations

#### Allegations not pleaded:

#### **Refusal to process civilian complaint-**

§ 87(2)(b) alleged that when she asked Sgt. Mark Carlino if she could speak to someone from IAB he informed her that no one from IAB was available. § 87(2)(b) was initially satisfied with his answer and did not ask again, but she later found out IAB was indeed available (Board Review 02). However, § 87(2)(b) never explicitly requested to file a CCRB complaint nor did she tell Sgt. Carlino why she wanted to speak to IAB. Therefore, this allegation has not been pleaded since it did not rise to the level of CCRB misconduct.

**Allegation A –Offensive Language: In front of § 87(2)(b) in Manhattan, Police Officer Polancobrito spoke offensively towards § 87(2)(b)**

**Allegation B –Discourtesy: In front of § 87(2)(b) in Manhattan, and at the 34<sup>th</sup> Precinct stationhouse, Police Officer Polancobrito spoke discourteously to § 87(2)(b)**

**Allegation D –Discourtesy: En route and at the 34<sup>th</sup> Precinct stationhouse, Police Officer Polancobrito spoke discourteously to § 87(2)(b)**

It is in dispute whether PO Polancobrito used offensive language or spoke discourteously when speaking to § 87(2)(b) and whether she used discourteous language when speaking with § 87(2)(b)

§ 87(2)(b) alleged that PO Polancobrito referred to her as “you people” when she stated that she did not “tolerate this crap you people do” (Board Review 02). Moreover, § 87(2)(b) and § 87(2)(b) both alleged that PO Polancobrito said “shit” and “bullshit” multiple times throughout the incident while on scene, en route to the 34<sup>th</sup> Precinct stationhouse, and at the stationhouse (Board Review 01 and 02).

The unidentified neighbor was present during the witness, but for the reasons previously noted she could not be reached to provide a statement. § 87(2)(b) was also present during the incident

Conversely, PO Polancobrito denied using any profanities towards § 87(2)(b) or § 87(2)(b) at any time during the incident (Board Review 05). Furthermore, she denied referring to § 87(2)(b) as “you people” or using any offensive language in regards to race or ethnicity when speaking to § 87(2)(b). PO Chen stated that he did not have any recollection of whether or not PO Polancobrito used any profanities during the incident, made any statements in regards to race or ethnicity, or referred to § 87(2)(b) as “you people” (Board Review 06).

§ 87(2)(g)

**Allegation C –Abuse of Authority: In front of § 87(2)(b) in Manhattan, Police Officer Polancobrito refused to provide her name and shield number to § 87(2)(b)**

It is undisputed by § 87(2)(b) and PO Polancobrito’s account, that in front of § 87(2)(b) in Manhattan, § 87(2)(b) asked PO Polancobrito for her name and badge number. What is in dispute is whether or not PO Polancobrito provided § 87(2)(b) with the aforementioned information.

While in front of the incident location, § 87(2)(b) asked PO Polancobrito, “Can you please give me your badge number? Can I use your pen so that I can write your badge number down” (Board Review 02). § 87(2)(b) alleged that, PO Polancobrito did not verbally provide her badge number and, instead stated that her name would be on a report she would complete. Furthermore, PO Polancobrito refused to provide her with a pen due to safety reasons and refused to write down her information.

§ 87(2)(b) stated that PO Polancobrito refused to provide her name and shield number when § 87(2)(b) asked for her information. Conversely, § 87(2)(b) stated that PO Polancobrito provided her name and shield number when § 87(2)(b) asked her. However, during § 87(2)(b)'s CCRB testimony, he did not recall PO Polancobrito's name and shield number. As previously noted above, the unidentified neighbor could not be reached for a statement.

In PO Polancobrito's CCRB testimony, she affirmed that when § 87(2)(b) asked for her name and badge number and stated that she verbally provided both to her (Board Review 05). When § 87(2)(b) asked for PO Polancobrito's information again, she repeated the information. Moreover, she also affirmed that she refused to give § 87(2)(b) a pen because § 87(2)(b) was agitated at the time and the pen could have been used as a weapon.

§ 87(2)(g)

§ 87(2)(g)

**Allegation E—Abuse of Authority: Inside the 34<sup>th</sup> Precinct stationhouse, Police Officer Polancobrito refused to provide her name and shield number to § 87(2)(b)**

It is currently in dispute whether § 87(2)(b) requested PO Polancobrito's name and shield at the 34<sup>th</sup> Precinct stationhouse.

§ 87(2)(b) alleged that when she asked PO Polancobrito for her shield number she replied, "You'll get it at the end on the summons or if he even goes home" (Board Review 02). When she asked PO Polancobrito for her name, PO Polancobrito ignored her.

Neither § 87(2)(b) nor § 87(2)(b) stated that they heard § 87(2)(b) ask PO Polancobrito for her name and shield number.

PO Polancobrito stated that § 87(2)(b) did not request for her name and shield number while at the stationhouse and she never voluntarily provided such information (Board Review 05). Moreover, she denied telling § 87(2)(b) that her name or shield number would be recorded in the summons.

Sgt. Carlino did not hear § 87(2)(b) ask PO Polancobrito for her name or badge number (Board Review 07). PO Chen stated that he was leaving the stationhouse when § 87(2)(b) entered and did not hear any conversation between PO Polancobrito and § 87(2)(b) (Board Review 06).

§ 87(2)(g)

**Allegation F—Abuse of Authority: Inside the 34<sup>th</sup> Precinct stationhouse, Police Officer Polancobrito issued a summons to § 87(2)(b)**

It is undisputed that PO Polancobrito issued two § 87(2)(b), § 87(2)(a) CPL 160.50 summonses to § 87(2)(b). The investigation determined that the first § 87(2)(b), § 87(2)(a) CPL 160.50 was properly issued due to § 87(2)(b)'s action as observed by PO Polancobrito and PO Chen (Board Review 12). However, this is not the case in regards to the issuance of the second summons for disorderly conduct, summons #§ 87(2)(b) for violation of Penal Law 240.20, subsection 6.

§ 87(2)(b) stated that PO Polancobrito and PO Chen approached him and § 87(2)(b) after § 87(2)(b) fell to the ground (Board Review 01). The officers subsequently walked § 87(2)(b) towards the building to speak to § 87(2)(b). At which time, PO Polancobrito grabbed onto § 87(2)(b)'s arm and as a reflex he moved his arm backwards. PO Polancobrito told § 87(2)(b) that he was not cooperating and placed him in handcuffs. § 87(2)(b) began to yell for his mother prompting § 87(2)(b) to come downstairs. § 87(2)(b) and § 87(2)(b) denied that there was a crowd that ever formed or any bystanders that came to the scene. § 87(2)(b) and § 87(2)(b) both stated that aside from the aforementioned civilians, the only other person present was a neighbor who they could not identify (Board Review 02 and 03).

PO Polancobrito explicitly stated the summons #§ 87(2)(b), § 87(2)(a) CPL 160.50 was issued because of § 87(2)(b)'s actions of flailing his arms and refusing to be placed in handcuffs by flailing his arms (Board Review 05). Additionally, PO Polancobrito stated that summons #§ 87(2)(b), § 87(2)(a) CPL 160.50 was issued at the same time as summons #§ 87(2)(b), § 87(2)(a) CPL 160.50. PO Polancobrito stated that Sgt. Carlino instructed her to issue the two summonses. PO Polancobrito stated that § 87(2)(b) did not yell or scream during the incident and repeatedly told her that he was afraid. Aside from all of the already aforementioned civilians, PO Polancobrito did not recall any additional civilians approaching. In the narrative of summons #§ 87(2)(b), § 87(2)(a) CPL 160.50 issued by PO Polancobrito to § 87(2)(b) states that § 87(2)(b) refused to comply with lawful orders, placing police in fear for their safety and “failed to follow directions placing officers in fear for safety and bring the situation further than it was [sic]” (Board Review 11).

PO Chen recalled some points of the incident, but stated that he did not have a complete recollection of the specifics (Board Review 06). PO Chen stated that the only offense he observed was for disorderly conduct for when § 87(2)(b) shoved and struck § 87(2)(b). He did not recall any additional offenses. Moreover, he also did not recall whether any additional civilians had arrived. He was also not aware of the outcome of § 87(2)(b)'s arrest or if he was issued any summonses.

Sgt. Carlino was unaware that PO Polancobrito issued § 87(2)(b) summons #§ 87(2)(b), § 87(2)(a) CPL 160.50 as she never informed him that she had done so (Board Review 07 and 08). Moreover, after reviewing the narrative of summons #§ 87(2)(b), § 87(2)(a) CPL 160.50 he stated that PO Polancobrito did not provide him with the information as noted in the summons. He was only advised that PO Polancobrito observed § 87(2)(b) push § 87(2)(b) and that § 87(2)(b) did not have any identification. Additionally, he denied that he told PO Polancobrito to write this summons and that he noted that his Command Log entry has only the first summons, summons #§ 87(2)(b), § 87(2)(a) CPL 160.50 noted. § 87(2)(g)

§ 87(2)(g)

According to the Manhattan District Attorney Summons Office, the aforementioned summons and § 87(2)(b), § 87(2)(a) CPL 160.50 were both sealed by the courts. On March 9, 2016, during a phone call to § 87(2)(b) she stated that both summonses were dismissed and that she was not told the reasons for the dismissal.

It is of note that PO Polancobrito's CCRB history indicated that in case #201016396 the CCRB determined that she improperly issued a disorderly conduct summons due to evidence that contradicted her account about why the summons was issued.

A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof:

Subsection 6: He congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse. Penal Law 240.20 (Board Review 16).

PO Polancobrito's CCRB testimony and her written narrative on the summons itself did not correspond with Penal Law 240.20, subsection 6. PO Polancobrito made no indication that she instructed § 87(2)(b) to disperse as her intent was to bring § 87(2)(b) to § 87(2)(b) to further investigate the incident and thereafter, he was placed under arrest. § 87(2)(g)

§ 87(2)(g)

**Allegation G— Other Misconduct: There is evidence suggesting Police Officer Angela Polancobrito provided a false official statement in violation of Patrol Guide Procedure 203-08, which the CCRB referred to IAB on March 28, 2016, generating log #16-11009.**

The CCRB found evidence suggesting that PO Polancobrito provided a false official statement regarding this incident. A spin-off case was referred to IAB in regards, under CCRB case number 201602130. The evidence is as follows:

On February 25, 2016, PO Polancobrito provided a statement to the CCRB regarding this incident. She stated that after she informed Sgt. Carlino of the circumstances of the incident, Sgt.

Carlino advised her to issue § 87(2)(b) two summonses by specifically pointing to the two disorderly conduct subsections she should cite (Board Review 02). PO Polancobrito subsequently issued two summonses; summons #§ 87(2)(b), § 87(2)(a) CPL 160.50 for disorderly conduct (Penal Law 240.20, subsection 6) and summons #§ 87(2)(b), § 87(2)(a) CPL 160.50 for § 87(2)(b), § 87(2)(a) CPL 160.50

In Sgt. Carlino's CCRB testimony, he stated that he instructed PO Polancobrito to only issue § 87(2)(b), § 87(2)(a) CPL 160.50 (Board Review 07). The summons #§ 87(2)(b), § 87(2)(a) CPL 160.50 was recorded in the 34<sup>th</sup> Precinct Command Log by Sgt. Carlino (Board Review 10). There is no indication of the second summons, summons #§ 87(2)(b), § 87(2)(a) CPL 160.50 in the Command Log. Sgt. Carlino denied instructing PO Polancobrito to issue any additional summonses and stated that he was never informed that a second summons had been issued (Board Review 08). Summons #§ 87(2)(b), § 87(2)(a) CPL 160.50 was presented to Sgt. Carlino; he reviewed it and stated that he did not recall this summons being issued. Moreover, he stated that PO Polancobrito did not provide him with any of the information that was included in the narrative of this summons.

Patrol Guide Procedure 203-08 states that an officer is prohibited from making a false official statement and that an officer found to have made such a statement will be subject to disciplinary action (Board Review 18). According to Department of Correction v. Centeno, OATH Index No. 2031-04 (2005), a false official statement must be proven to have been made, material, and intentionally false (Board Review 17).

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Squad:

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date